

REMARKS

Summary of the Amendment

Upon entry of the above Amendment, Claims 3 and 7 will have been amended and Claims 1-2, 4-6 and 8 will have been cancelled without prejudice or disclaimer. Accordingly, Claims 3 and 7 remain currently pending. By the present Amendment and Remarks, Applicant submits that the rejections have been overcome, and respectfully requests reconsideration of the outstanding Office Action.

Summary of the Office Action

In the subject Office Action, the Examiner has rejected Claim 1 under 35 U.S.C. § 102(b) as being clearly anticipated. Additionally, the Examiner has rejected Claims 2-8 under 35 U.S.C. § 103(a) as being unpatentable over the art of record.

Traversal of Rejection under 35 U.S.C. § 103(a)

In re Rejection of Claim 3

Applicant respectfully traverses the rejection of Claim 3 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2,054,978 to Hoelscher [hereinafter "HOELSCHER"] in view of U.S. Patent No. 3,877,327 to Erm [hereinafter "ERM"] and U.S. Patent No. 6,176,160 to Ruhlander et al. [hereinafter "RUHLANDER"].

The Examiner submits that HOELSCHER discloses all of the claimed subject matter except for having a 5/16 inch cavity and a ¼ inch cavity. The Examiner then notes that HOELSCHER discloses that the HOELSCHER valve handle extension "is adapted to fit . . . all standard sizes of valve stems", discloses "a plurality of concentrically arranged squared portions . . . being successively smaller", and further discloses "axially aligned sockets progressively decreasing in size . . . [which] correspond to the diameters of the various squared portions 86 found on standard valve stems used in connection with radiator valves or other valves". The Examiner then concludes that HOELSCHER discloses forming the plural sockets with standard sizes related to valve stems. The Examiner next takes official notice

that 5/16 inch and ¼ inch valve stems are notoriously old and well known in the art. The Examiner then submits that it would have been obvious to one having ordinary skill in the art to form the plural sockets of HOELSCHER with standard sizes related to valve stems such as 5/16 inch and ¼ cavities as such sizes are known in the art.

Next, the Examiner further submits that ERM discloses a cylindrically-shaped socket. The Examiner then further submits that it is notoriously old and well known in the socket art to form sockets as cylindrically-shaped and that it would have been obvious to one having ordinary skill in the art to form the socket of HOELSCHER as cylindrically-shaped as such would have been an obvious variation in shape as taught by ERM.

Furthermore, the Examiner submits that RUHLANDER discloses a generally elliptical-shaped handle. And finally, the Examiner submits that it would have been obvious to one having ordinary skill in the art to form the handle of HOELSCHER as generally elliptically-shaped to enable the tool to be gripping and rotated as taught by RUHLANDER.

In re Applicant's Claim 3

As amended, the preamble of Applicant's Claim 3 now recites, *inter alia*, . . . "said gas valve key **consisting of:** . . ." Applicant notes that the transitional phrase "consisting of" excludes any element, step or ingredient not specified in the Claim. *In re Gray*, 53 F.2d 520, 11 USPQ 255 (CCPA 1931); *Ex Parte Davis*, 80 USPQ 448,450 (Bd. App. 1948) ("consisting of" defined as "closing the Claim to the inclusion of materials other than those recited except for impurities ordinarily associated therewith."). Therefore, since the preamble of Claim 3 has been amended to include the preamble "consisting", Applicant submits that there are numerous features and elements included in the HOELSCHER base reference which now renders the aforementioned rejection inappropriate.

In particular, the invention recited in Claim 3 "consists of", or is limited thereto, three basic elements or features including: (1) a handle, (2) a longitudinal shaft, (3) and a socket. On the other hand, the HOELSCHER valve handle extension comprises more than just a handle, longitudinal shaft and socket. Rather, HOELSCHER includes a handle 22 which is attached to shaft 20 by a screw. The HOELSCHER valve handle extension further includes a second shaft 21 which is received by the first shaft 20 in a telescopic manner. Moreover, the second shaft includes fork members 30. The HOELSCHER device further includes a bearing

member 24 which is adapted to receive the first shaft wherein the bearing member 24 is attached to an extended supporting portion 38 adapted to be slidably recessed within a tube 25 which projects out from a radiator. Surrounding the upper end of the second tube 21 is a clamping means 35 which also uses a screw 36 to hold the clamping means together. Hence, by this element by element comparison, it is clearly evident that *the HOELSCHER valve handle extension includes far more features than the Applicant's invention recited in Claim 3 which only claims, and is specifically limited to by use of the "consisting" preamble, three features* (a handle 6, longitudinal shaft 8, and a socket 10).

Based upon the aforementioned amendment which has changed the preamble from "comprising" to "consisting", Applicant submits that HOELSCHER is not a valid base reference for the pending 35 U.S.C. § 103 rejection.

Furthermore, Applicant submits that since Claim 3, as amended recites, *inter alia* [a] "**unitarily formed** gas valve key" . . . in the preamble, Claim 3 is now further limited to a device which is unitarily formed, i.e. a one-piece device.

On the other hand, the HOELSCHER device is built from numerous components which are independently and separably manufactured from the other components. For instance, the HOELSCHER handle 22 must be fastened to a separate shaft 20 via a screw 23. Furthermore, the HOELSCHER shaft is composed of two telescopic components 20 and 21. Moreover, the HOELSCHER attachment member 31 is not unitarily formed with the lower end of the shaft 21. Applicant therefore submits that since the preamble of Claim 3, as amended, is directed to, *inter alia*, [a] **unitarily formed** universal gas valve key . . . , Claim 3 is distinguished from the HOELSCHER valve handle extension device.

Furthermore, it is noted that within the body of Claim 3, there are several more limiting features which the HOELSCHER device does not read on. For instance, as amended, Claim 3 now recites, *inter alia*, . . . said socket having **only** a pair of cascaded stem receiving cavities each having a square cross-section formed within said socket including a first cavity adapted to receive a 5/16 inch wide valve stem forming an opening on the other circular end of said socket and a second cavity adapted to receive a 1/4 inch wide valve stem nested within the first cavity. Applicant submits that the HOELSCHER reference does not teach the aforementioned limitation.

In particular, the HOELSCHER attachment member 31 has within it a plurality of concentrically arranged square portions. However, as amended, Applicant's Claim 3 is now limited to only a pair of cavities, and in particular, a first cavity adapted to receive a 5/16 inch wide valve stem and a second cavity adapted to receive a 1/4 inch side valve stem nested within the first cavity. Therefore, because the HOELSCHER attachment member 31 teaches more than two nested cavities as explicitly shown in Figure 3, once again HOELSCHER cannot be properly read on Claim 3 as amended.

For the foregoing reasons, and because HOELSCHER fails to teach or suggest the above-noted limiting features of the present invention as explicitly recited in Claim 3, *Applicant submits that even if the Examiner's combination of HOELSCHER in view of ERM and RUHLANDER is appropriate, the invention recited in Claim 3 still does not result.*

Accordingly, Applicant respectfully submits that the Examiner has failed to provide an adequate evidentiary basis to support a rejection of Claim 3 under 35 U.S.C. § 103(a) as being unpatentable and that the rejection is improper and should be withdrawn, and further Applicant requests that the Examiner indicate the allowance of Claim 3 in the next Office Action.

In re Rejection of Claim 7

Applicant respectfully traverses the rejection of Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over HOELSCHER in view of ERM and RUHLANDER as applied above and further in view of U.S. Patent No. 5,813,296 to Hoff, et al. [hereinafter "HOFF"].

The Examiner submits that HOELSCHER discloses a handle having a handle socket therein for receiving an end of a shaft 20 and a socket having an opening in one end for receiving the opposite end of the shaft 20. The Examiner further notes that HOFF discloses a force-fit square connection between a shaft, a socket and a handle. The Examiner then submits that it would have been obvious to one having ordinary skill in the art to form the connections of HOELSCHER as force-fit square connections to enable the engagement and release between the shaft, socket and handle allowing for interchangeability as taught by HOFF.

In re Applicant's Claim 7

As amended, the preamble of Applicant's Claim 7 now recites, *inter alia*, . . . "said gas valve key **consisting of**" . . . As already discussed, it is well known in the body of patent law that the transitional phrase "consisting of" excludes any element, step or ingredient not specified in the claim. *In re Gray*. Therefore, since the preamble of Claim 7 has been amended to include the preamble "**consisting**", Applicant submits that there are numerous features and elements included in the HOELSCHER base reference which now renders the aforementioned rejection inappropriate.

In particular, the invention recited in Claim 7 "consists of", or is limited thereto, three basic elements or features including: (1) a handle, (2) a longitudinal shaft, (3) and a socket. On the other hand, the HOELSCHER valve handle extension comprises more than just a handle, longitudinal shaft and socket. In particular, the HOELSCHER handle 22 is attached to shaft 20 by a screw. The HOELSCHER valve handle extension further includes a second shaft 21 which is received by the first shaft 20 in a telescopic manner. The second shaft includes fork members 30. The HOELSCHER device further includes a bearing member 24 which is adapted to receive the first shaft wherein the bearing member 24 is attached to an extended supporting portion 38 adapted to be slidably recessed within a tube 25 which projects out from a radiator. Surrounding the upper end of the second tube 21 is a clamping means 35 which also uses a screw 36 to hold the clamping means together. *Therefore, Applicant submits that the HOELSCHER device includes far more features than the Applicant's invention recited in Claim 7 which only claims three features.*

Based upon the aforementioned amendment which has changed the preamble from "comprising" to "consisting", Applicant submits that HOELSCHER is not valid base reference for the pending 35 U.S.C. § 103 rejection.

Furthermore, it is noted that within the body of Claim 7, there are several limiting features which the HOELSCHER device does not read on. For instance, as amended, Claim 7 now recites, *inter alia*, . . . "said second socket having **only** a pair of cascaded stem receiving cavities disposed therein, each having a square cross-section formed within said body of said second socket including a first largest cavity adapted to receive a 5/16 inch wide

valve stem forming an opening on the other circular end of said socket and a second cavity adapted to receive a ¼ inch wide valve stem nested within the first cavity.” Applicant submits that the HOELSCHER reference does not teach the aforementioned limitation.

In particular, the HOELSCHER attachment member 31 has within it a plurality of concentrically arranged square portions. However, as amended, Applicant’s Claim 7 is now limited to *only* a pair of cavities, and in particular, a first cavity adapted to receive a 5/16 inch wide valve stem and a second cavity adapted to receive a ¼ inch side valve stem nested within the first cavity. Therefore, because the HOELSCHER attachment member 31 teaches more than two nested cavities as explicitly shown in Figure 3, once again HOELSCHER does not read on Claim 7 as amended.

For the foregoing reason, and because HOELSCHER fails to teach or suggest the above-noted limiting features of the present invention as explicitly recited in Claim 7, *Applicant submits that even if the Examiner’s combination of HOELSCHER in view of ERM, RUHLANDER and HOFF is appropriate, the invention recited in Claim 7 still does not result.*

Furthermore, Applicant’s Claim 7 as amended also recites, *inter alia*, . . . “a longitudinal shaft formed from a solid bar having a square cross-section” . . . Applicant submits that HOELSCHER also does not teach the aforementioned feature.

As shown in Figure 3, the HOELSCHER valve handle extension is comprised of two shafts 20 and 21, both of which are hollow so that they may telescopically and slidably interfit together. Furthermore, the second shaft includes fork members 30. On the other hand, Applicant’s invention as recited in Claim 7, is limited to a longitudinal shaft formed from a solid bar having a square cross-section, which is a feature not taught by HOELSCHER.

For the foregoing reason, and because HOELSCHER fails to teach or suggest the above-noted limiting feature of the present invention as explicitly recited in Claim 7, Applicant submits that even if the Examiner’s combination of HOELSCHER in view of ERM, RUHLANDER and HOFF is appropriate, the invention recited in Claim 7 still does not result. Therefore, the aforementioned rejection is inappropriate and does not render Applicant’s Claim 7 as being unpatentable.

Moreover, it appears the HOFF modification to HOELSCHER as proposed by the Examiner *further destroys the function of the HOELSCHER valve handle extension*. In particular, the HOELSCHER fork members 30 are adapted to receive therein and grip the attaching member 31. It is further noted that HOELSCHER was designed explicitly to provide access to a screw 33 which is received into valve stem 32. On the other hand, Applicant's invention has no need to provide room or access to a screw 33 which is installed into the tip of the valve stem 32, and by modifying HOELSCHER with the HOFF teaching, the HOELSCHER device is now destroyed or the function thereof is destroyed because there would be no access to the screw 33.

Accordingly, by taking into consideration the aforementioned distinctions and a flaws with respect to the proposed modification, Applicant respectfully submits that the Examiner has failed to provide an adequate evidentiary basis to support a rejection of Claim 7 under 35 U.S.C. § 103(a) as being unpatentable and that this rejection is improper and should be withdrawn, and further Applicant respectfully requests that the Examiner indicate the allowance of Claim 7 in the next Office Action.

Application is Allowable

Applicant respectfully submits that each and every pending claim of the present application meets the requirements, and respectfully requests the Examiner to indicate the allowance of such claims.

CONCLUSION

Applicant respectfully submits that each and every pending claim of the present application meets the requirements for patentability under 35 U.S.C. § 102 and 103, and respectfully requests that the Examiner indicate the allowance of such claims.

In view of the foregoing, it is submitted that none of the references of record, when anticipate or render obvious the Applicant's invention as recited in Claims 3 and 7. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto. Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein is respectfully requested and now believed to be appropriate.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 4/26/05 By: 

Customer No.: 007663

Kit M. Stetina
Registration No. 29,445
STETINA BRUNDA GARRED & BRUCKER
75 Enterprise, Suite 250
Aliso Viejo, California 92656
Telephone: (949) 855-1246
Fax: (949) 855-6371